

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

-vs-

DENY MITROVICH,
Defendant.

Case No. 18 CR 789

Chicago, Illinois
December 19, 2022
10:15 a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE GARY FEINERMAN

APPEARANCES:

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Also Present: MR. MICHAEL ALPER, U.S. Probation.
MR. JUSTIN WIERSEMA, Pretrial Services.

Court Reporter:

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1 (Proceedings heard in open court:)

2 THE CLERK: 18 CR 789, USA versus Mitrovich.

3 THE COURT: For the government?

4 MR. ERSKINE: Good morning, your Honor. Andrew
5 Erskine on behalf of the United States. And would you like us
6 at the tables or the lecterns?

7 THE COURT: Completely up to you, whatever you're
8 more comfortable with doing.

9 MR. GLOZMAN: Maybe we can sit. Mr. Mitrovich has an
10 injury, if that's okay.

11 THE COURT: That's fine.

12 And then for the defendant?

13 MR. GLOZMAN: Good morning, your Honor. For the
14 record, Vadim Glozman on behalf of Deny Mitrovich, who's
15 present and next to me.

16 THE COURT: Are you ready to proceed with the
17 hearing?

18 MR. GLOZMAN: We are, your Honor.

19 THE COURT: So, let me ask, Mr. Mitrovich, if you've
20 had a chance to see the Presentence Investigation Report and
21 review it with your attorney.

22 THE DEFENDANT: Yes.

23 THE COURT: And, Mr. Glozman, other than the
24 objection to that five-level enhancement, do you have any
25 objections or corrections to any of the proposed Guideline

1 calculations or factual assertions in the PSR?

2 MR. GLOZMAN: In talking with Probation, I don't
3 think it falls within the PSR, but there is a paragraph of
4 factual assertions in the recommendation that are inaccurate.

5 THE COURT: Oh, in the recommendation?

6 MR. GLOZMAN: In the recommendation. It's just not
7 supported by the facts, and I don't think the government is
8 saying that it happened what it says in there happened. So, I
9 don't know if I need to correct that for the record.

10 THE COURT: I don't think that goes -- that's not
11 part of the PSR, so you can just make your argument; but
12 there's not anything that needs to be formally corrected.

13 MR. GLOZMAN: Understood.

14 THE COURT: Government, any objections or corrections
15 from your end?

16 MR. ERSKINE: No, your Honor.

17 THE COURT: All right. So, why don't we talk about
18 the Guidelines issue first.

19 And just for the record, we're all here in court.
20 We're not on Zoom. The COVID order or the CARES Act order
21 expired earlier this month.

22 So, there's a five-level enhancement that the
23 Probation Office proposes and that the government agrees under
24 2G2.2(b)(3)(B) for knowingly engaging in distribution in
25 exchange for valuable consideration.

1 And the defendant made, I'd say, four arguments
2 against the application of that enhancement. And I'd like to
3 discuss and focus on the fourth one, which is -- keys on the
4 particular language in the commentary that defines the phrase,
5 "The defendant distributed in exchange for any valuable
6 consideration."

7 And the commentary states that that phrase means
8 that the defendant agreed to exchange with another person,
9 under which the defendant knowingly distributed to that other
10 person for the specific purpose of obtaining something of
11 valuable consideration from that other person, such as child
12 pornographic material.

13 And what the defendant is arguing is that the way
14 that phrase is defined in the commentary, it requires an
15 individual-to-individual trade, and that peer-to-peer networks
16 or communities where you post things in exchange for being
17 able to participate in the online community doesn't count.

18 And in support, the defendant cites *U.S. versus*
19 *Halverson*, which is a Fifth Circuit case from 2018.

20 So, let me ask the government for your thoughts on
21 that issue; and if you could address whether you think that
22 *Halverson* is distinguishable from this case, and if so, why;
23 and whether or not you think it's distinguishable, whether you
24 think it's correctly decided, and if so, why -- if not, why
25 not?

1 MR. ERSKINE: Your Honor, so, I think that the
2 enhancement should apply because I think it's common --
3 commonly accepted that one of the -- a rule of construction,
4 you know, often includes interpreting person both in the
5 singular and the plural. I don't -- I don't think it is a
6 reasonable construction, interpretation of that commentary to
7 think that this enhancement would apply only if this were a --
8 were distributed to an individual, but not to the -- you know,
9 the more damaging situation of multiple individuals, where you
10 had multiple individuals agreeing to a practice. I think that
11 that is -- is an unreasonable interpretation because of the --
12 because of the outcome that would come from it.

13 So, I think this is a situation where you have, you
14 know, the defendant agreeing with each person who was -- you
15 know, individually, even though they didn't know each other,
16 who was part of the community, who were signed-up members, who
17 were familiar with the terms, the requirements of membership,
18 and essentially, on a one-on-one basis multiple times over
19 that agreement, a *quid pro quo* understanding that involved
20 the, you know, exchange for value of something of value for
21 additional access to child pornography. So that's exactly
22 what happened here.

23 And I apologize. As I sit here, I don't recall the
24 facts of that Fifth Circuit case, but if it -- to the
25 extent -- does it involve the -- essentially, the seeding

1 process of just a peer-to-peer torrent-style distribution?

2 THE COURT: I think so. And the reason -- I didn't
3 come up with *Halverson* on my own. It was cited in the
4 defendant's brief.

5 So, Mr. Glozman, maybe you can speak to the facts of
6 the *Halverson* case.

7 MR. GLOZMAN: Your Honor, I think *Halverson* is almost
8 as identical to this case as it comes. The only difference is
9 in *Halverson*, it was a peer-to-peer network, as opposed to
10 here, where it was a forum.

11 And what happened in *Halverson* was by making
12 available the defendant's materials for other people to
13 download, the network would give them preferential -- I think
14 the quote is, "preferential access to more child pornography."
15 So, the people who would download it, and the website was the
16 one who would give them preferential access.

17 This is exactly what is alleged here. Mr. Mitrovich
18 would post links on the website for other people to see, and
19 then the website would give him access to other portions of
20 the website that he otherwise would not get.

21 So, I think what's missing from the government's
22 argument is it has nothing to do with if it's an agreement
23 with one person or two people or whatever it is. It's if it's
24 one thing for another.

25 And what happens here is the child pornography is

1 being made available downward for the people, but the people
2 aren't the ones who are giving him preferential access or
3 access to other parts. It's the website is. So, there's two
4 separate parties here working, and it's not an exactly
5 one-for-one exchange like the Guidelines contemplate.

6 And I don't see much of a factual distinction between
7 *Halverson* and here, your Honor, aside from the fact that
8 *Halverson* was peer-to-peer and this is a forum. Both are
9 preferential access in exchange for sharing. *Halverson* said
10 that's not what the Guidelines are talking about. You don't
11 get the five points. And I think the same applies here.

12 And I don't want to concede, your Honor, that
13 Mr. Mitrovich was even distributing here. What's happening
14 here is he was posting links.

15 THE COURT: Okay. That argument, I'm not -- I don't
16 think that's your best argument, to put it kindly.

17 MR. GLOZMAN: Understood, Judge. But I think this
18 case should be decided the same way *Halverson* was.

19 THE COURT: Yeah.

20 MR. ERSKINE: And, your Honor, if I could just
21 respond.

22 THE COURT: Oh, of course.

23 MR. ERSKINE: And, your Honor, I did suspect that it
24 was a peer-to-peer torrent-style situation, where you do
25 not -- in those -- with peer-to-peer file sharing, individuals

1 often are not even aware of the fact that they are making
2 available to others, you know, the child pornography. And
3 even if in the *Halverson* case that person was aware, it wasn't
4 a precondition to being able to access any child pornography.

5 The biggest difference between that set of facts and
6 this case is it wasn't sort of a range of access. It was
7 binary. Either you had access or you did not have access.
8 And the only way you could stay in good standing and have
9 access is if you gave, is if you contributed, consistent with
10 the requirements of the website.

11 And I'm not -- the individuals who are administering
12 the website, it's not as though they were some third-party
13 people who just liked maintaining forums. They were also
14 consumers and producers -- and providers of child pornography.
15 So, to the extent you're looking for someone specific or a
16 collection of people specific, the administrators of the
17 website were also individuals engaged in the consumption and
18 distribution of child pornography.

19 MR. GLOZMAN: We don't know that, Judge.

20 THE COURT: Sorry. You can continue.

21 MR. ERSKINE: So, the -- again, because this is a
22 binary situation and it was explicit -- the terms of access to
23 the website, this is not akin to the facts, as I understand
24 them, in *Halverson*.

25 THE COURT: So, what you're saying is that the

1 one-to-one -- and by one-to-one, I don't mean one piece of
2 pornography to another piece of pornography. I mean one
3 person to another person, the defendant to another person.

4 So, you're saying that the other person in the
5 equation is not somebody who viewed the material that
6 Mr. Mitrovich posted. Rather, you're saying that that other
7 person is the administrator of the forum, who in exchange for
8 Mr. Mitrovich posting the material gave Mr. Mitrovich valuable
9 consideration, meaning preferential access to the forum?

10 MR. ERSKINE: I'm saying it's both, your Honor, but
11 I'm just responding to a distinction that defense counsel --
12 I understood him to be drawing, which is that the person
13 setting -- controlling the access was different from other
14 consumers, which is true.

15 You know, it's our -- it's the government's position
16 that even as to the other people who are knowingly
17 participating in this system of sharing and of required
18 contribution for continued access, administrator or not,
19 those -- or let's just say a non-administrator would count as
20 well for the kind of exchange -- *quid pro quo* relationship
21 that would call for the enhancement.

22 But just responding to the specific argument of
23 defense counsel, to the extent you're trying to find someone
24 who is sort of more -- perhaps more explicitly in a *quid pro*
25 *quo* relationship or to a higher degree, you could look at the

1 administrators of the website because these are the ones who
2 are effecting the requirement and who, in response to the
3 defendant's contributions, you know, approved continued
4 access.

5 And again, it's -- these are individuals who are
6 themselves, you know, engaged in the running and the
7 consumption and the contribution of child pornography. So,
8 it's not as though it's just some third party individuals who
9 have no idea about the child pornography nature of what's
10 going on. They are themselves involved.

11 So, both categories represent individuals with whom
12 the defendant was exchanging or providing access to child
13 pornography or providing child pornography in exchange for
14 the defendant's continued access to child pornography.

15 THE COURT: Why don't I ask that you address the
16 issue of the administrator of the forum, and why can't that
17 person be the person on the other side of the transaction for
18 purposes of this Guideline and for purposes of the analysis
19 that the Fifth Circuit set forth in *Halverson*?

20 MR. GLOZMAN: Because, your Honor, we don't know if
21 they were. We're just guessing if they were consuming it or
22 not. They could be just running --

23 THE COURT: They don't need to consume it, though.
24 They just need to accept it.

25 MR. GLOZMAN: They're not -- I think in *Halverson*,

1 Judge, what the government's saying, it's not for continued
2 access. *Halverson* actually said, if you shared more, you'll
3 get preferential access. And that's the same thing that was
4 happening here. If you shared, you got preferential access.

5 And the sharing -- you're not sharing with the
6 website. You're sharing with the consumers. The
7 administrator's not a consumer.

8 THE COURT: But it doesn't have to be -- the person
9 on the other side of the transaction doesn't have to be a
10 consumer, does it?

11 MR. GLOZMAN: I understand, Judge, but if you're
12 trading one thing for another thing, which is what the
13 Guidelines are asking you to do.

14 THE COURT: Right. You're trading -- a person who
15 participates on The Love Zone trades pornographic -- child
16 pornographic material for preferential access to the forum.

17 MR. GLOZMAN: But he's not sharing it with the forum
18 or with the administrator. He's sharing it with the people
19 who watch it.

20 THE COURT: Well, why can't it be both? He is
21 sharing it with the administrator. He's distributing it to
22 the administrator.

23 I think you're just using the word "sharing" as a
24 synonym for consuming -- or you're saying that in order to
25 share child pornography, the person with whom you are sharing

1 it has to consume what you're providing; and that's not -- I
2 don't see why that's true.

3 MR. GLOZMAN: I think that's what's contemplated by
4 the commentary of the Guidelines, your Honor.

5 MR. ERSKINE: And, your Honor, to that point, it
6 could be -- this is a case where the thing of value that's
7 being provided is child pornography, but you can imagine a
8 situation where it's just money or it's drugs or something
9 else. And the -- you know, the person -- what matters is
10 giving something of value, and in response, you're receiving
11 something back. You're receiving the child pornography back.

12 THE COURT: Okay. Any final thoughts, Mr. Glozman?

13 MR. GLOZMAN: What the Guideline contemplates is
14 distributing child pornography. So, in order for -- it has to
15 be distributed. You're not -- if you're just posting
16 something and someone doesn't consume it, you're not
17 distributing it.

18 If I put money on the table and no one takes that
19 money, they're not taking that money. It's just there.
20 You're not distributing that money to anyone, or drugs.

21 So, there has to be a consumer on the other end for
22 it to get distributed. This isn't just if you share something
23 and you make it available and you get something for it, you
24 get the Guideline. You have to distribute it for something of
25 value. In order to distribute it, there has to be someone on

1 the other end of it, your Honor.

2 THE COURT: Yeah. And then the question is: What
3 does that person on the other end do with it?

4 MR. GLOZMAN: But that person who gets it has to be
5 the one --

6 THE COURT: Let's say the person who gets it has no
7 interest in it, but knows that it has pecuniary value, so goes
8 around and sells it to somebody else who consumes it.

9 MR. GLOZMAN: But you're not -- the administrators
10 here aren't asking for them to take it and do what they want
11 with it. They're asking them to share it with the people who
12 are coming on their website. They're not saying, "Hey, give
13 it to me and then I'll do whatever I want with it." It's
14 like, "No, you do it so people see it."

15 THE COURT: Right. I agree with you on that point,
16 but I'm not sure it yields the conclusion that you think it
17 yields. I think the government has the better of the argument
18 here.

19 The Guideline, as I mentioned, is 2G2.2(b)(3)(B),
20 which says that there's a five-level enhancement if the
21 defendant distributed child pornography in exchange for any
22 valuable consideration, but not for pecuniary gain.

23 And distribution is defined in the commentary as,
24 "any act, including possession with intent to distribute,
25 production, transmission, advertisement, and transportation

1 related to the transfer of material involving the sexual
2 exploitation of a minor. Accordingly, distribution includes
3 posting material involving the sexual exploitation of a minor
4 own a website for public viewing, but does not include the
5 mere solicitation of such material by a defendant."

6 If that's all the commentary said and didn't go on to
7 define "the defendant distributed in exchange for any valuable
8 consideration," this would be an easy case in favor of the
9 government because here, Mr. Mitrovich posted material
10 involving the sexual exploitation of a minor on a website for
11 public viewing.

12 What makes things complicated is this other
13 definition, which I think you could probably -- I think there
14 are reasonable arguments on both sides, but I'll give the
15 benefit of the doubt to the plaintiff here -- I'm sorry, to
16 the defendant here, and say that there has to be -- it has to
17 be an exchange where you give child pornography to a person,
18 and in return, that person gives something back to you.

19 And that person here, even under that understanding
20 of the definition of the phrase "the defendant distributed in
21 exchange for any valuable consideration," in applying the
22 standard that the Fifth Circuit laid out in *Halverson*, that
23 person is the administrator.

24 The defendant agreed to an exchange with another
25 person. This is the four elements that the Fifth Circuit

1 laid out. The defendant agreed to an exchange with another
2 person. Here, that other person is the administrator, and
3 the exchange is the defendant will put -- upload pornography
4 to the forum that is run by the administrator; and in
5 exchange, the administrator gives the defendant,
6 Mr. Mitrovich, preferential access.

7 Two, the defendant knowingly distributed child
8 pornography to that person. Yes, that's -- when you do the
9 upload, that's a knowing distribution of child pornography.

10 Three, for the purpose of obtaining something of
11 valuable consideration. Yes. That's getting the preferential
12 access to The Love Zone.

13 And four, the valuable consideration came from that
14 person, meaning the administrator. And, yes, the
15 administrator is the one who gives Mr. Mitrovich preferential
16 access.

17 So, that -- that part of the analysis is satisfied.
18 So now I'm going to have to talk about the other three
19 arguments.

20 In terms of the -- you know, whether the defendant
21 knowingly made -- the defendant argues that he didn't
22 knowingly make his exploitative material accessible to others.
23 That argument I disagree with. The whole point of The Love
24 Zone is to make material accessible to others, other people
25 in the forum.

1 In terms of -- another argument the defendant makes,
2 which is sending a hyperlink is not sufficient. I disagree
3 with that. There's no practical or legal difference between
4 posting say a JPEG or posting a hyperlink to a JPEG. It's
5 practically speaking and legally speaking the same thing.

6 And in any event, the exhibit to the government's
7 response brief shows, by a preponderance of the evidence, that
8 given the size of the files of what the defendant posted, that
9 the defendant did do more than post hyperlinks.

10 The first argument that the defendant made is that it
11 can't be someone else's exploitative material. What do you
12 mean by that?

13 MR. GLOZMAN: Judge, I -- I think I disagree that
14 the government's exhibit made it seem by a preponderance of
15 the evidence that Mr. Mitrovich uploaded it. They took
16 everything that was on his computer, all the images, all the
17 videos. They have it. And then they have this list that they
18 attached to their sentencing memorandum. And it could have
19 easily looked, "Hey, does he have these files on his
20 computer?" And they didn't.

21 It's different -- if there's a website and
22 Mr. Mitrovich copies the URL and pastes it in the forum,
23 that's not him uploading his own material. Uploading his own
24 material is if it's on his computer, he possesses it, and it's
25 a link to that. And they're no proof of that.

1 They could have easily proved that. They could say,
2 "Look at these links. He has the same videos or the same
3 pictures in his hard drive." And there's no connection made
4 like that, Judge. That's an easy cross reference to make.

5 So, if it's not his own, if he's not possessing it,
6 if he's linking it to a third-party website, that's not
7 distribution.

8 THE COURT: I want to make sure we're talking about
9 the same exhibit. It's an exhibit from The Love Zone.

10 MR. GLOZMAN: Yes.

11 THE COURT: And it shows things that Mr. Mitrovich
12 posted that are megabyte-sized, which isn't just a URL link.
13 It's a file.

14 MR. GLOZMAN: I don't know that, Judge. The
15 government -- it's their burden, and they have to show --
16 where does it say if you put a URL, you don't get a size of
17 the file?

18 The difference here is, Judge --

19 THE COURT: It's just something we all know. And the
20 size of a file, you could -- send a -- next time you're on
21 e-mail, send a URL and see what Outlook says about how many
22 kilobytes or megabytes there are. I imagine it's going to be
23 in the kilobyte range rather than the megabyte range.

24 So, that's -- but even so, I don't even think it
25 legally matters whether it's a URL or either a 91-megabyte

1 file or a 268-megabyte file or a 46-megabyte file or a
2 232-megabyte file.

3 So -- but how about the argument that I was asking
4 you about, where I think you're saying in order to distribute
5 something, in order to be deemed to have distributed child
6 pornography, you had to have produced it? Is that your
7 argument?

8 MR. GLOZMAN: No, your Honor. If it came across that
9 way, I apologize. I meant --

10 THE COURT: Well, then, I must have misread it. So,
11 I apologize to you for misreading your argument.

12 Let me just focus in on what I was looking at,
13 because I want to make sure that I fully understand your
14 argument.

15 Well, maybe you didn't make any -- maybe I'm seeing
16 an argument that isn't there. You -- one of your -- parts of
17 your brief talk about distributing someone else's exploitative
18 material, and I'm wondering how that fits in -- how that
19 concept fits in to the Guideline.

20 MR. GLOZMAN: And that's what I meant, Judge, by
21 posting a URL.

22 THE COURT: I see.

23 MR. GLOZMAN: Because if it's on his hard drive and
24 he possesses it, I believe he can distribute that. You don't
25 have to make the drugs to distribute the drugs, as long as you

1 have them to distribute it.

2 But if you just link to a URL that's got a video
3 streaming, that's not yours. You're not possessing that. If
4 I give a URL to a YouTube video of a music video or something,
5 that's not my music video; but if I have it downloaded on my
6 hard drive and I put a link to someone downloading it off my
7 computer, that's me distributing it. That's the difference
8 I'm trying to make.

9 THE COURT: Okay. So, I think the two grounds --
10 it would be the second of the two grounds that I gave for
11 disagreeing with your argument about the hyperlink. The
12 exhibit that the defendant submitted shows that what
13 Mr. Mitrovich was doing was more than just sending hyperlinks;
14 he was sending actual files.

15 And those -- you know, 50-megabyte, 200-megabyte
16 files, those are consistent with videos, so I find by a
17 preponderance of the evidence that that was what was happening
18 here.

19 So, the Guidelines range here is 135 to 168, which
20 is based on an offense level of 33 and a criminal history
21 category of I. There are the other 3553(a) factors. Why
22 don't I give Mr. Glozman a chance to take the first crack
23 at it. I'll turn it over to the government. Then I'll ask
24 Probation if you have anything to add. Then we'll bring it
25 back to Mr. Glozman. And then Mr. Mitrovich will have the

1 opportunity, though not the obligation, to address the Court
2 before sentencing.

3 With that said, Mr. Glozman, I read all the letters
4 that you submitted. Will there be anybody else other than you
5 and possibly Mr. Mitrovich addressing the Court this morning?

6 MR. GLOZMAN: No, your Honor.

7 THE COURT: Okay. Go ahead.

8 MR. GLOZMAN: I don't think there's much left to say
9 about the crime that Mr. Mitrovich committed that hasn't
10 already been said or written or thought by anyone in this
11 case, including your Honor. It's bad. And it's as bad as it
12 sounds, and it's as bad as it seems.

13 And as Mr. Mitrovich comes before the Court here
14 today, I can assure you that there's no one else who
15 appreciates the seriousness and the gravity of the situation
16 more than him. This case has been in the forefront of
17 Mr. Mitrovich's life for the past eight years, which is a
18 significant portion of his entire life. I think it's about a
19 fifth of his entire life already this case has been pending.

20 And when any sort of case looms that long over a
21 person's life, it has deteriorating effects on them; but when
22 it's a case of this magnitude where the punishment is so much
23 more than just an anticipated jail term because of all the
24 collateral consequences, I think it affects a person's life
25 that much more significantly, and it certainly has with

1 Mr. Mitrovich.

2 Because although the case has only been in front of
3 this Court, your Honor, for what seems like four very long
4 years, I was on it for three of them, Mr. Mitrovich knew this
5 day would come even four years before he was indicted, when
6 the federal government came to his house and they imaged all
7 of his computers and let him know he was being investigated
8 for child pornography.

9 And so it's with a great deal of apprehension that I
10 try to do this, not because I lack any confidence in this
11 Court reaching a sentence that's reasonable and not greater
12 than necessary, but because it's so difficult to quantify
13 not only the punishment that Mr. Mitrovich has already
14 experienced, but then to also consider the punishment that
15 he's going to face as it compares to typical offenders.

16 And I've spent countless hours over the last three
17 years talking to not only Mr. Mitrovich, but to his father
18 before his passing and more recently to his mother, both
19 before and after her debilitating stroke. And I don't think
20 I've ever seen the fear of a looming punishment manifest
21 itself so concretely in a client as much as I have with
22 Mr. Mitrovich.

23 And in talking with his family and as seen through
24 the character letters, I think it's obvious that Mr. Mitrovich
25 has become a shell of a person that he was before. And even

1 in my own observation, from the time that I started
2 representing him and as we got closer and closer to
3 sentencing, I've seen him become even more of a shell of who I
4 first met.

5 You know, once in a while, there's a glimmer of hope
6 that comes in Mr. Mitrovich's eyes. He starts talking about,
7 like, the lessons he's learned in therapy and through a book
8 called *Secrets* they made him read and *The Power of*
9 *Manifestation* and *The Power of Positivity*, but that's always
10 short-lived. There's always a swift snapback to reality when
11 it comes to the realization that despite all the positive
12 changes that he could make in his life, what happens today
13 will be out of his control and a punishment that's going to
14 affect the rest of his life.

15 Obviously, Mr. Mitrovich has no one to blame but
16 himself. He's here today because of the choices that he
17 made. And as this Court knows, those choices came over a
18 four-month period of time from August of 2014 until December
19 of 2014.

20 And the government has gone in their memo into great
21 detail about what he did, and I'm sure they're going to today
22 also. I don't need to belabor that. And the Guidelines
23 certainly illustrate the seriousness of the crime.

24 But the punishment that the Guidelines advise in this
25 matter, your Honor, are not reasonable. And I know the

1 charges are extremely serious, but what the Guidelines ask for
2 and what the government is asking for overstate the
3 seriousness of the offense, and it's not going to result in a
4 just punishment.

5 There are all of these enhancements that are tacked
6 on, but they're applicable in pretty much every single case
7 now. And I don't need to go through the cases that I cited
8 in my memo or the policy arguments made by the Sentencing
9 Commission. I know your Honor has read all of that.

10 What this Guideline range does, it reflects the
11 public disdain for these types of cases instead of accurately
12 reflecting what a just punishment would be based on the
13 individual circumstances.

14 And what happens in these cases, and it certainly
15 did for Mr. Mitrovich, is you use your computer to go on the
16 Internet, you download a Zip file that who knows how many
17 files are on it, you unzip it, and then you have hundreds of
18 files on your computer of things you never wanted or never
19 asked for or never intended on having. And so because of one
20 download, you can have enhancements for using a computer, for
21 having over 600 files, which took one download; you have files
22 of people under 12 or masochistic images that you never wanted
23 because they were kept in this compiled file that you
24 downloaded from someone else; and then you keep it in a folder
25 that -- this is the distinction that I wanted to make from the

1 recommendation. The folder that these were kept on here was
2 not a shared folder. The recommendation talks about how all
3 of these 1200 files were made available to everyone worldwide.
4 That's not true. They were just on a separate hard drive, and
5 the only thing made available was the 24 links that the
6 government put the exhibit on.

7 And you're sitting here with a person with little to
8 no criminal history, and you're stuck with Guidelines that are
9 more often than not for people who distributed on a mass
10 scale, which Mr. Mitrovich did not do, or for people who
11 induced or enticed children to participate in these things,
12 which Mr. Mitrovich did not do, or for people who produced the
13 material, which Mr. Mitrovich did not do.

14 And here, the government wants 11 to 14 years or
15 whatever it is for a person for all they know could have
16 gotten all of these files off of one Zip file, off of one
17 download, without asking for anything specific. I mean, the
18 range of things on there is so broad, you don't know you're
19 asking for one thing, and you get all of these other things.

20 And they certainly didn't find on his computer any
21 search terms or posts for these materials that give him these
22 extra enhancements, for masochistic or even smaller kids.
23 It's all bad, Judge, but I think there's a scale that's
24 attached to it, and these Guidelines just tack it on.

25 And, you know, when it comes to Mr. Mitrovich, your

1 Honor, these terrible photos and videos that were downloaded,
2 it was done by a person who was probably in one of the darkest
3 places of his entire life. You know, he had a childhood that
4 was filled with physical and emotional abuse. He was expelled
5 from school. He was a teenager that was taken advantage of by
6 an adult in the armed forces. He was undiagnosed with major
7 depressive disorders.

8 He was 36, you know, 14 years of a loveless marriage
9 with no kids, no life partner, someone who was cheating on
10 him, had no respect for him, and a never-ending barrage of
11 self-hate and self-doubt and was contemplating and planning
12 his suicide, and self-medicating every single day for
13 20 years, daily alcohol, daily marijuana, weekly cocaine,
14 daily meth, all compounded over 20 years.

15 And when this all comes together, you find yourself
16 making decisions that you would never imagine making and still
17 can't understand how he ever made them or why he did. And
18 Mr. Mitrovich cannot come to terms or understand what -- what
19 he did and why he did it. It's just not who he is.

20 You know, there were polygraphs given to him by the
21 U.S. Attorney's Office that prove this. There were federal
22 agents that went out and conducted multiple interviews with
23 family members who have children, with those minor children
24 themselves, and those interviews prove it.

25 And I think this is a way to differentiate

1 Mr. Mitrovich from the typical offender who is charged with
2 the same crime as he is. Because it wouldn't be fair if you
3 take two people on paper who have the same offense and the
4 same criminal history and give them similar sentences when
5 one's suffering from debilitating mental health concerns and
6 substance abuse issues and is not engaging in any sort of
7 dangerous activity in real life as opposed to the other
8 person.

9 And this doesn't excuse his behavior, but it gives us
10 a lens to see what he was going through when he did this.

11 I'm not asking this Court not to punish Mr. Mitrovich
12 for what he did. I understand the need for punishment. But
13 what I ask is that you consider these circumstances that led
14 him to doing what he did when crafting a reasonable sentence:
15 The fact that he had major depression that led to suicidal
16 thoughts because of a myriad of life circumstances; that he
17 was heavily drugged; that this was not someone who was
18 endangering the children around him in his life.

19 And when contemplating the sentence, this Court
20 should also consider how this punishment's going to be carried
21 out, because unlike other offenders who get sentenced by this
22 Court, Mr. Mitrovich will not be able to enroll in programs in
23 the BOP to get extra time off his sentence. He's not going to
24 be able to get First Step Act credit. He can't go to a
25 minimum security camp with other white-collar, non-violent

1 offenders.

2 He's going to be subject to assaults and other
3 reprisals from inmates because of the nature of the crime.
4 There's case law on that I think I cited, Judge. And then
5 he's going to be released as a registered sex offender for
6 the rest of his life and subject to all the limitations that
7 come with that.

8 He's not going to be able to use a computer or smart
9 phone without being monitored while on supervised release.
10 He's going to live with the public shame of being a sex
11 offender, which I don't think can be understated.

12 And all of this comes eight years after federal
13 agents came to his house with a search warrant.

14 And just as it's important to consider what
15 Mr. Mitrovich was going through at the time he committed the
16 crime, it's also important to look at what he did right when
17 he got caught. And he admitted everything to the agents right
18 then and there. There was no lawyer telling him what he
19 should say or to mitigate his sentencing.

20 He gave them access to all his computers where he
21 knew he had the contraband they were looking for. He gave
22 them the passwords to the websites that he was using. He
23 voluntarily took a polygraph test, two of them, I think.

24 He attempted to cooperate with the government; and it
25 never amounted to anything, but I think the effort should

1 count for something. It was through no fault of his own that
2 it didn't work out. He just didn't have the information or
3 the connections to get the government what they were hoping
4 for, I guess.

5 And he quit using the drugs cold turkey. After
6 20 years of daily use, he knew he couldn't keep using if he
7 was going to change his life. He didn't want to do anything
8 to jeopardize the case that he knew was coming. And to this
9 day, eight years later, he still hasn't used.

10 And he started doing therapy. He finally got
11 diagnosed with his major depressive disorder. He started
12 taking the medications, and he started implementing the
13 lessons he was learning in his life.

14 And he's maintained steady work, and he didn't let
15 the pandemic stop him like so many other people.

16 But the wait for today has been long and dreadful
17 because the uncertainty wears on a person, and it certainly
18 has on Mr. Mitrovich. And the wait has been made that much
19 worse because despite all the positive steps that he's taken
20 in his life, despite the changes that he made to better
21 himself and make the most of the situation, the reality of the
22 charges and the reality of the time made these eight years
23 that much harder.

24 And he hasn't been able to use a smart phone or a
25 computer for over four years. It's tough in a world that

1 almost exclusively relies on these types of devices now.

2 And Mr. Mitrovich's wife left him. She refused to
3 keep working on their relationship. She resented him. She
4 moved out and is now threatening to use this conviction as a
5 leverage in divorce to get what she can from him,
6 notwithstanding the fact that Mr. Mitrovich was the main
7 financial supporter of the family throughout the marriage.

8 Many of his friends started to disassociate with
9 him. One of his brothers disassociated with him. His father
10 died, who despite the tumultuous relationship they had when
11 Mr. Mitrovich was younger really turned around and he became
12 his biggest supporter. I got to know Mr. Mitrovich's father
13 fairly well, as well as I did Mr. Mitrovich. And it pains me
14 to say those terrible things about him because I know he had
15 changed his life around, and now that he's gone,
16 Mr. Mitrovich's life is that much harder. You know, he really
17 ended up being his best friend after he started losing
18 everything.

19 It's almost ironic that when Mr. Mitrovich was an
20 innocent child, that the relationship he had with his father
21 was what it was, but when he was accused of such a terrible
22 crime, it was his father that was his biggest defender.

23 And then Mr. Mitrovich's mother recently had a
24 debilitating stroke. I knew her before, and she's not the
25 same person that she was before now, and it's clear.

1 Mr. Mitrovich is terrified that depending on this
2 Court's sentence, that he may never get to see her again; and
3 she's pretty much all that he has left in this world since
4 everybody started abandoning him eight years ago.

5 Maybe the most heart-breaking, at least for me since
6 I'm a new father myself, is Mr. Mitrovich's relationship to
7 his own two-year-old son, or lack thereof. Mr. Mitrovich has
8 never met him. He's never got to hold his child or talk to
9 him or any of the typical fatherly duties that men, or at
10 least me, tend to take for granted.

11 He doesn't want to embarrass his child for what he
12 did or burden him with it. He does not want his child to get
13 to know his father only to lose him to prison for however long
14 it will be. Mr. Mitrovich just loves him and thinks about him
15 from a distance. He sends him money every month, whatever he
16 can, just to make sure he's supported as best as he can given
17 the circumstances.

18 And the reality of the situation is that
19 Mr. Mitrovich will never be able to be much of a father to
20 him. He'll be a registered sex offender. If Mr. Mitrovich is
21 ever able to be part of his child's life and keep him ignorant
22 of what he did, he'll never be able to go see him in a school
23 play or watch him compete in a school sport or go to any of
24 his graduations or pick him up at school or be trusted to
25 chaperone him and his friends or whatever it may be, Judge.

1 I don't think he'll ever be able to be a father in any sense
2 of that word.

3 Your Honor, I can't even begin to presume the
4 difficulty of what you have to do here today, but I do
5 respectfully ask that you take all of these mitigating
6 circumstances into consideration, as well as the other ones
7 that I put in my memo, when you craft your sentence. And we
8 ask you not only to look at the face of the allegations of the
9 government, but to look into the consideration of what led him
10 to do what he did and how he has acted and how his life has
11 been affected the last eight years, how he's changed himself.

12 What he did was wrong, and he's going to be the first
13 person to admit that; but we ask you to consider the principle
14 of parsimony embedded in 3553(a) when crafting his reasonable
15 sentence. We understand the need to punish him for what he
16 did, and we're not trying to get around that. It's necessary.

17 But look at what he went through as a child. Look at
18 the mental health and substance abuse issues that he's
19 battled, the feelings of hopelessness, helplessness,
20 worthlessness that plagued him and still continue to plague
21 him today.

22 Look at what he's been through and what he's done
23 since he got caught, his cooperation, his sobriety, his loss
24 of nearly everyone close to him, and all the future punishment
25 and collateral consequences he's going to undoubtedly face.

1 You know, Mr. Mitrovich has done a lot over the last
2 eight years to try to get his life back on track, and I
3 commend him for that. And I think in times like these, it's
4 easier just to give up and take what's coming, but that's not
5 what he did. He has continued to try to better himself. And
6 isn't that what we want to see from defendants, to not give
7 up, but to do what they can with themselves to make sure they
8 don't find themselves in a similar situation later in life?

9 You know, it may be hopefulness, or it may be
10 naivete, but I've always been of the mindset that sentencing
11 isn't just about punishing a person, but about putting them in
12 a situation that will help them rehabilitate and succeed in
13 life; sentences that should give people like Mr. Mitrovich
14 hope that people care about their well-being and their success
15 in life; sentences that will take into account what people
16 have gone through and will continue to have to endure;
17 sentences that will put them in a position to succeed instead
18 of fail when they are released, to get them the help they need
19 instead of locking them up without addressing the underlying
20 issues; and sentences that will encourage the positive steps
21 and changes that people like Mr. Mitrovich have made as
22 they've awaited their sentencing, instead of sentences that
23 will perpetuate a state of discontent with life.

24 But what the government asks for, a near Guidelines
25 sentence, will do none of that. It will just punish, and it's

1 not going to take into account any of these other aspects of a
2 person's life and what these proceedings should be about.

3 You know, as I've said a couple of times today, your
4 Honor, I've gotten to know Mr. Mitrovich fairly well during
5 my time representing him, and I've gotten to know him both
6 from his own perspective and from the perspective I've gotten
7 from some of his family members. And from what I know about
8 him, Judge, if there's anyone who deserves another chance,
9 it's him.

10 He's a good person, and I say that unequivocally and
11 wholeheartedly. Put simply, Judge, he's not a lost cause.
12 He's made improvements in himself, and he can make so many
13 more. And he's got a lot of good to give, and I truly believe
14 that.

15 And we ask you, Judge, just to take that into
16 consideration. Sentence him through the laws of lenity and as
17 leniently as you see fit under the law.

18 THE COURT: Thank you.

19 Government?

20 MR. ERSKINE: Yes, your Honor. A couple of
21 preliminary things. There is forfeiture in this case.
22 Pursuant to the plea agreement, the hard drives are being
23 forfeited by agreement, so we'd ask the Court to include
24 that as part of pronouncing the sentence.

25 THE COURT: And I know there's a motion for a

1 preliminary order of forfeiture. I would be granting that
2 and entering the preliminary order of forfeiture, and then
3 there would be subsequent proceedings on that?

4 MR. ERSKINE: Yes, your Honor.

5 THE COURT: All right.

6 MR. ERSKINE: And then on the matter of restitution,
7 so, as I noted in the filing I made yesterday, as to all but
8 one of the victims, there's currently an agreed amount of
9 restitution. There's one victim; and there was a negotiation,
10 and we won't get into negotiation. It wouldn't be appropriate
11 to do so. But essentially, at this point in time, the
12 requested amount is for \$5,000, and the government concurs in
13 that request.

14 And I set forth the -- essentially the relevant
15 information in the supplemental memorandum that is the
16 anticipated compensable expenses as well as the information
17 the government has with regard to the number of orders that
18 have been entered with regard to the victim.

19 So, the government supports that request, but
20 obviously, it's up to the judge to determine the amount of
21 restitution as to that defendant -- sorry, that victim.

22 And then, your Honor, the government is asking for a
23 sentence of 135 months, which we believe is sufficient, but no
24 greater than necessary, to accomplish the goals of sentencing.

25 As the Court is aware, the defendant had

1 approximately 1,296 images and approximately 539 videos of
2 child sexual abuse material on his computer at the time of
3 the search warrant. And some of those materials involved
4 sadism or masochism and other violence, as well as materials
5 involving the exploitation or sexual abuse of a toddler.

6 And those items are factored in to the Guidelines,
7 which I think speaks to the reasonableness of the Guidelines
8 as directing the sentence in this case.

9 But, you know, these days, it's very common to
10 criticize the Guideline as being out of date and being overly
11 harsh, but I'd just point to a few things that the Guidelines
12 really don't take full account of, either partial account or
13 no account at all.

14 So, I think one of the most telling parts of the
15 record is the defendant -- the fact that he contributed
16 24 times. And you saw those -- those rows in the sealed
17 exhibit of each time he contributed, and you can review and
18 have reviewed, I'm sure, the titles of those materials that
19 he was contributing.

20 And it went on for a period of months. And so it's
21 not merely downloading one Zip file and having things in there
22 that you didn't expect. It's not just that. It is this
23 purposeful distribution time and time again in order to ensure
24 that you have access so you can continue to consume this
25 exploitative, abusive material.

1 And then another thing that's not taken into account
2 in the Guideline is the fact that this entire -- all of this
3 horrible stuff took place on Tor, and the entire purpose for
4 this all taking place on Tor was that everyone knew it was
5 illegal. Everyone knew that it was wrong; but they wanted to
6 do it anyway, and they wanted to do it in a way where they
7 could do it and not get caught. And that consciousness, those
8 extra steps just demonstrate the knowing wrongfulness of the
9 conduct.

10 It wasn't someone just Googling and going down some
11 sort of rabbit hole on the Internet and ending up in the
12 public Internet -- you know, obviously, that would be
13 potentially criminal and wrong as well, but this was much
14 more methodical, when -- the defendant needed to download Tor.
15 He needed to learn the process for using it. He needed to
16 access the site. And then, of course, the continued uploading
17 to maintain access. All of those things are a degree of plan
18 and thoughtfulness and not mere one-off mistake.

19 And then finally, your Honor, you know, we did hear
20 a lot of mitigation evidence from defense counsel. We would
21 ask the Court to, of course, similarly consider all the
22 letters from the victims that were attached to the PSR about
23 the pain and abuse and trauma the victims experienced in their
24 lives and have experienced, not just at the hands of the evil
25 perpetrators who initially committed these crimes, but that

1 they continue to feel day in, day out because the materials
2 displaying their abuse continue to be accessed every day, and
3 the pain and suffering that it causes them and will continue
4 to cause them.

5 So, your Honor, for those reasons, the government
6 requests a sentence of 135 months.

7 THE COURT: Okay. Thank you.

8 Probation, anything you'd like to add?

9 MR. ALPER: No, your Honor. And for the record,
10 Michael Alper, U.S. Probation.

11 THE COURT: I forgot. I'm so sorry.

12 MR. ALPER: No worries. Thank you, Judge.

13 THE COURT: Sure.

14 Mr. Glozman, anything you would like to add?

15 MR. GLOZMAN: I want to talk about just for a second
16 the -- the restitution issue. I agree we shouldn't go into
17 details of the negotiation. We agreed to everything besides
18 one, Judge. And what stopped the disagreement with this one
19 was there was a certain number discussed, and that was relayed
20 to the victim's attorney; and their position was --

21 MR. ERSKINE: Your Honor, I would object to
22 discussing -- I mean, these are settlement kind of
23 conversations that shouldn't be brought to the Court's
24 attention about the negotiation of a settled amount.

25 THE COURT: Why don't you -- I do need to make a

1 decision as to what the restitution is for this victim,
2 correct?

3 MR. ERSKINE: Correct.

4 THE COURT: So, what are your views -- so, I do need
5 to hear from Mr. Glozman his reasons for why it should be
6 something other than \$5,000.

7 MR. ERSKINE: And the government obviously has no
8 objection to defense counsel offering that position. But what
9 I expect to be offered is more in the way of describing the
10 manner of negotiation rather than a sort of substance.

11 THE COURT: Well, why don't you go ahead and tell me
12 what you --

13 MR. GLOZMAN: I think Mr. Erskine is accurate, I
14 think, but I think it just bears to the reasonableness of the
15 number. The number was agreed to if it were to be paid on the
16 day of sentencing, and absent that, it was doubled. And to
17 me, that doesn't seem reasonable because we're agreeing to pay
18 that amount, and he doesn't have that kind of cash on hand so
19 it can't be paid today. And so just to punish him because he
20 can't do it this day is what I'm objecting to, Judge. Because
21 the number otherwise was acceptable, but because it's
22 impossible -- or not possible for him to pay right now is why
23 it was disagreed to, and that's my objection to it.

24 THE COURT: So, what number do you think it should
25 be?

1 MR. GLOZMAN: Half.

2 THE COURT: 2,500?

3 MR. GLOZMAN: I think that's what we discussed.

4 MR. ERSKINE: 3,000.

5 THE COURT: 3,000? And, government, is -- so, I know
6 it gets a little bit into negotiations, but is -- I do need to
7 know what the parties' positions are. Is it the government's
8 position that it's 3,000 if paid today and 5,000 if paid at
9 some other point?

10 MR. ERSKINE: No. The government is not -- so, I
11 guess two things. At this time, there's no conditional offers
12 being extended by anyone. The victim is requesting a \$5,000
13 restitution at this time, and the government is supporting
14 that request.

15 THE COURT: Okay.

16 MR. ERSKINE: And the payment doesn't need to be
17 today. You know, it will be paid with restitution as the
18 restitution is paid. And that's premised on -- we think that
19 that is supported by the expenses outlined in the materials
20 that I summarized in the filing yesterday, and in the -- and
21 in the specifics of the case.

22 I believe as to that victim, the defendant possessed
23 three images, so we think \$5,000 is appropriate.

24 THE COURT: What -- how were the amounts -- well, I
25 see that there are -- there's a chart on docket 145 at page 3

1 that lays out what the restitution is.

2 MR. ERSKINE: And so I think it's going to be a
3 different docket number, your Honor.

4 THE COURT: Well, I know. So, how does victim No. 11
5 fit in with the images and the videos, the number of images
6 and the number of videos involved with these nine victims that
7 are listed on page 3 of docket 145?

8 MR. ERSKINE: So, the -- there were three images and
9 no videos.

10 THE COURT: I see. Of No. 11?

11 MR. ERSKINE: Correct. Though -- so, to the extent
12 the Court is considering something other than five, we would
13 ask that the Court at a minimum take the upper 1 over N
14 number, which is \$3,986.72.

15 THE COURT: All right. Go ahead, Mr. Glozman.

16 MR. GLOZMAN: Your Honor, I just -- I'm asking for
17 3,000. I think 1,000 per image is fair. It was --

18 THE COURT: All right. I mean on other issues.

19 MR. GLOZMAN: Oh, on other issues?

20 THE COURT: Yeah, anything else you'd like to
21 address.

22 MR. GLOZMAN: No, your Honor. Like I said before,
23 I'm not going to sit here and talk about it not being as
24 serious as it is. It is serious. I just hope your Honor can
25 take the other mitigating circumstances within the framework

1 of 3553(a) in crafting a well-below-Guidelines sentence.

2 THE COURT: All right. Thank you.

3 Mr. Mitrovich, if you'd like to make a statement to
4 the Court, you don't have to, but if you'd like to, now is
5 your time.

6 THE DEFENDANT: Okay. Dear Honorable Judge, I, Deny
7 Mitrovich, would like to start by saying how truly sorry I am
8 for my actions I had taken. Although I had considered myself
9 a law-abiding citizen, I had broken the law. Up to the
10 incident, my previous record can attest to my honesty in that
11 statement. I had no intention of hurting anyone nor breaking
12 any laws, let alone federal.

13 My curiosity had taken over me, and I started
14 researching the dark websites. I realize now that that was
15 the biggest mistake that I ever made in my 44 years of life.
16 And this is costing and changing the rest of my life forever.

17 There's not a single day that goes by without me
18 regretting that I should not have gone on those sites. Since
19 2015, I cooperated and assisted to amend for my past conduct.
20 It just felt like everything was downhill for me since then.

21 My wife was worn down by all this, and we shortly
22 separated soon after. My former lawyer Barry lost his license
23 around that time and could not represent me any further. I
24 then had to borrow money from family and friends to acquire
25 my current lawyer.

1 My father fell sick from a severe stroke and died.
2 Several months later, my mother also was stricken with a minor
3 stroke and never fully recovered. I was completely left on my
4 own to deal with this serious situation.

5 I truly thank God for my current lawyer, who helped
6 me and treated me as a human being. I also thank God for the
7 help I received from counseling and psychological treatment.
8 These three things helped me through the hardest, darkest, and
9 most trying time of my life.

10 I am not the person the prosecution paints me out to
11 be, and I feel the system perceives me as a monster. I am a
12 truly caring and giving and godly person. I always put
13 family, friends, and even strangers' welfare above my own. I
14 would give the shirt off my back to help anyone in need.
15 Anyone who knows me would tell the same.

16 I made a mistake that put me in a terrible position,
17 and it's no one's fault but mine. I am truly sorry for my
18 actions. I'm sorry that my stupidity caused me to break the
19 law. I regret everything I did from day one, and have
20 suffered greatly from the last eight years of my life as a
21 result.

22 And because I affected the family and victims, I did
23 everything possible to fix all the wrong that was done. I ask
24 that you see me for who truly I am and not a predator. I ask
25 you to rule truly and fairly considering all factors of my

1 case. No words can convey how sorry I am about my actions.

2 THE COURT: Thank you, Mr. Mitrovich.

3 Anything further from the government?

4 MR. ERSKINE: No, your Honor.

5 THE COURT: Mr. Glozman?

6 MR. GLOZMAN: No, your Honor.

7 THE COURT: Okay. I want to thank both counsel for
8 their very fine work in the briefs that you submitted and in
9 your presentations here this morning.

10 And I want to thank the probation officer for his
11 excellent work in this case. And again, apologies for not
12 having you make your appearance at the beginning of the
13 hearing.

14 And I want to thank everybody who wrote letters on
15 Mr. Mitrovich's behalf. To me, those were very helpful to me
16 in evaluating what I need to evaluate, which is not just the
17 crime, but also the person. So, I appreciate those letters
18 as well.

19 The governing statute, 18 USC 3553(a), requires me
20 to consider seven sets of factors, and I'll address them in
21 turn. The first factor will require the most extensive
22 discussion, and then the other six will require less
23 discussion.

24 So, the first factor requires me to consider the
25 nature and circumstances of the offense and the history and

1 characteristics of the defendant. The offense is gravely
2 serious. It's possession of child pornography. There were
3 three hard drives, including images of prepubescent minors
4 and minors under 12 years old.

5 So, beginning on or about August of 2014,
6 Mr. Mitrovich used the Tor, which I guess is an acronym for
7 The Onion Router, to access a website, a forum called The Love
8 Zone, which is an online bulletin board dedicated to sharing
9 child pornography. Under the site's rules, members were
10 required to periodically upload child pornography to the site
11 in order to maintain the ability to download child
12 pornography. And from August through December of 2014,
13 Mr. Mitrovich contributed about 24 times. And this is set
14 forth in the exhibit that the government filed on
15 October 18th. It's docket 146.

16 So, as I mentioned, there were three -- in terms of
17 the possession, there were three hard drives, together about
18 1300 images of child pornography, and over 500 videos. They
19 included items involving sadistic and masochistic conduct,
20 sexual abuse and other violence, and in at least one instance,
21 the sexual abuse or exploitation of a toddler.

22 This material -- the reason why it's so severely
23 punished is because the creation -- the production of the
24 material and then the subsequent possession and distribution
25 of the material creates tremendous and lifelong harm to the

1 children who are depicted in the images and the videos. And
2 each time somebody else possesses those images or videos,
3 they're re-victimized. And each time that somebody shares
4 those images or videos, whether it's a one-on-one situation,
5 or whether posting to a forum, they're re-victimized as well.

6 And the victim impact statements that are attached
7 to the Presentence Investigation Report lay out far better
8 than I can articulate the harm that these victims have felt,
9 continue to feel, and will for the rest of their lives
10 experience due to the production of the child pornography,
11 which I know that Mr. Mitrovich is not responsible for, but
12 for the possession and the sharing of that child pornography.

13 In terms of the circumstances of the offense, this
14 took place over the course of four months, so there was
15 plenty of time for reflection and re-assessment; and that did
16 not happen over the course of those four months.

17 And, you know, to Mr. Glozman's point about when you
18 download a Zip file, you don't quite know what you're going to
19 get, and I understand that. And I think it's a good point.
20 But what we have here, we don't have just one download here.
21 And if we did, it would be a different case.

22 But it's -- Mr. Mitrovich went to a forum, The Love
23 Zone, through the Tor network, which is a clandestine network.
24 And the forum is a place where pornography -- the purpose of
25 the forum is to show child pornography and share child

1 pornography with other people who like to watch child
2 pornography. And Mr. Mitrovich contributed 24 times. And
3 what this chart shows is that he contributed in August, in
4 September, in October and November.

5 And what the posts indicate that these images or
6 videos, some involved a 14-year-old. Some involved an
7 11-year-old, then a nine-year-old, and then a six-year-old.

8 So, it wasn't just somebody got a Zip file and didn't
9 quite know what was inside and that was that. This case
10 involves much more than that, and that -- that accounts for
11 that five-level enhancement we talked about at the beginning
12 of the hearing.

13 In terms of Mr. Mitrovich's history and
14 characteristics, he's 44 years old, a United States citizen.
15 There's no criminal history, really, to speak of. He was
16 born and raised in Chicago. As the PSR lays out, and as
17 Mr. Glozman described in the memorandum, Mr. Mitrovich's
18 father, at least at that point was physically and emotionally
19 abusive.

20 The PSR describes and Mr. Glozman reiterates in his
21 brief when Mr. Mitrovich was 16, he had a rather extended
22 sexual relationship with a 32-year-old woman, and
23 Mr. Mitrovich at that time was a minor. I'm taking that
24 into account.

25 Mr. Mitrovich's relationship with his father was

1 repaired. He recently passed away. And Mr. Mitrovich remains
2 close with his mother, who has severe health issues arising
3 from the stroke that she recently experienced.

4 Mr. Mitrovich has been married since 2000, although
5 he's in the process of divorce. He has a young son with
6 another woman, and he does not have contact with that son,
7 although he does provide financial support.

8 Mr. Mitrovich is in good physical health. He does
9 have some mental health issues. There was one severe
10 depressive episode when he was a teenager. Since the FBI
11 searched his home in 2014, he suffered from depression,
12 anxiety, and insomnia, which is certainly understandable,
13 given the situation.

14 The defendant's brief references a severe episode
15 of major depressive episode, but that happened -- my
16 understanding of the PSR is that that happened after he was
17 charged in this case and not during the offense conduct.

18 The PSR also reflects, and Mr. Glozman has emphasized
19 in his brief, that Mr. Mitrovich has had substance abuse
20 issues, alcohol, marijuana, cocaine, and methamphetamine
21 before the 2014 search of his house, and that Mr. Mitrovich
22 has been working on and relatively successfully dealing with
23 those substance abuse issues over the last four years.

24 And, you know, to Mr. Glozman's point about the
25 substance abuse issues and the mental health issues, I

1 understand that that -- both of those things, either or both
2 of those things, affect a person and affect the way that they
3 view life; but I'm having a hard time drawing a causal
4 relationship between those substance abuse and mental health
5 issues and what Mr. Mitrovich did in this case.

6 And to the extent that there is a causal
7 relationship, I think at most, it's very tenuous; and that's
8 just because there are untold numbers of people who have
9 substance abuse issues, untold numbers of people who have
10 mental health issues; and for nearly all of them, it doesn't
11 trigger the kind of behavior that Mr. Mitrovich engaged in
12 here.

13 And again, it's not just being curious and being in a
14 state of either depression or being under the influence of
15 drugs and coming across a Zip file and having a momentary
16 lapse and taking possession of things that he shouldn't have
17 taken possession of. There was -- you know, it took a lot of
18 wherewithal to get on the Tor network, to join this Love Zone
19 website, and to time and time again, 24 times over four
20 months, contribute material.

21 I don't think that can be laid at the feet of the
22 substance abuse issues and the mental health issues that
23 Mr. Mitrovich was suffering from at the time.

24 He's a high school graduate and has taken post
25 secondary classes and obtained certificates in various trades,

1 which is to his credit. Mr. Mitrovich has a decent employment
2 history.

3 He has been largely compliant with the conditions of
4 pretrial release. And Mr. Mitrovich admitted his guilt and
5 received three levels' credit for that.

6 He was -- I don't know whether what he did rises to
7 the level of cooperation in the 5K1 sense, and according to
8 the government, it doesn't; but just colloquially speaking,
9 since the search of his home, Mr. Mitrovich has cooperated
10 with the government in terms of giving passwords and access
11 to all the materials, and that's something in his favor that
12 I'm considering.

13 As I mentioned, I read all the letters submitted on
14 his behalf. There are letters from his mother, brother,
15 brother-in-law, and a number of friends; and those letters,
16 as you might imagine, speak very positively about
17 Mr. Mitrovich's personal characteristics and how he is a good
18 son, a good brother, and a good friend to those individuals.
19 And that's something that I'm considering, and I'm also
20 considering Mr. Mitrovich's allocution, where he expressed
21 remorse, and I believe his remorse is sincere.

22 The second set of factors requires me to consider
23 the need for the sentence imposed to accomplish the various
24 purposes of criminal punishment. The first purpose is to
25 reflect the seriousness of the offense, to promote respect

1 for the law and provide just punishment for the offense. I've
2 already talked about how serious the offense conduct is, and I
3 won't repeat myself.

4 The second purpose is to afford adequate deterrence
5 to criminal conduct. And what that means is that it has --
6 the sentence has to send a message to the community at large
7 that if you're going to engage in this kind of conduct, the
8 penalty is going to be severe; and, therefore, it's best to
9 desist and refrain, rather than go forward with it. And the
10 sentence will accomplish that goal.

11 The third purpose is to protect the public from
12 further crimes of the defendant. And with this kind of crime,
13 there's always a risk, moreso than in the mine run case, of
14 recidivism, just given the nature of the crime. That said,
15 this will be Mr. Mitrovich's first time in prison. It will
16 undoubtedly have a greater impact on him than it would on
17 somebody who's been in and out of custodial settings. And the
18 time in prison will be difficult because Mr. Mitrovich will
19 not be able to avail himself of programs and opportunities,
20 given the nature of -- that other -- other inmates convicted
21 of different crimes are able to take advantage of.

22 There's also the post incarceration collateral
23 consequences that are going to be imposed on Mr. Mitrovich
24 that will make it less likely that he's going to re-offend.
25 And then there's the fact that over the last eight years,

1 Mr. Mitrovich has taken great steps towards achieving sobriety
2 and addressing the mental health issues that he was facing.
3 And that -- whether or not there is a causal relationship
4 between substance abuse and mental health issues on the one
5 hand and engaging in this kind of criminal conduct on the
6 other, the fact that Mr. Mitrovich is taking steps at
7 self-improvement in and of itself is a positive indicator
8 for when he is released from prison.

9 The third factor are the kind of sentences available.
10 There's a 20-year maximum sentence of imprisonment.

11 The Advisory Guidelines range is 135 to 168 months.
12 We talked about that at the beginning of the hearing.

13 Mr. Glozman made an argument that is often made in
14 these kinds of cases, which is the enhancements for using a
15 computer, the enhancement for possessing large numbers of
16 images and videos, are historic relics that don't account for
17 the technological advancements that make those
18 characteristics, using a computer, possessing large numbers
19 of images and videos, widespread and very common among
20 individuals who are convicted, whether by way of trial or
21 plea, of committing this kind of crime.

22 I understand the argument. I don't find it
23 persuasive. I don't think it matters whether some, most,
24 or all defendants convicted of child pornography offenses
25 use a computer or whether they possess over 600 images. The

1 more images, the more harm; and the more harm, the greater
2 the punishment. And that's what the enhancement is designed
3 to do.

4 And when you use a computer, as opposed to the way
5 it used to be done in the pre-computer age, there's easier
6 and more frequent transmission of child pornography that
7 causes more harm; and again, that warrants greater punishment,
8 which is accomplished by the enhancements.

9 So, I understand the challenge to the Guidelines. I
10 just don't find those particular challenges persuasive.

11 The fifth factor are Guideline policy statements.
12 There are none that have -- I haven't -- there are none that
13 have been expressly addressed.

14 The sixth factor is the need to avoid unwarranted
15 sentence disparities among defendants with similar records
16 who have been found guilty of similar conduct. The Seventh
17 Circuit, in talking about subsection (a)(6), says that it
18 generally weighs in favor of a Guidelines sentence because
19 the Guidelines are about uniformity, and so is this sixth
20 factor.

21 That said, I understand just from my own experience
22 and from looking at the materials that the Sentencing
23 Commission puts out and from Mr. Glozman's brief that there
24 are many below-Guidelines sentences in this particular area,
25 as well as other areas, and so I'm taking that into account

1 as well.

2 And the seventh factor is the need to provide
3 restitution to any victims of the offense. There is
4 restitution in this case, but there's -- it's not a -- it's
5 an important consideration, but in terms of what the custodial
6 sentence would be, I think it -- it is not as significant as
7 the other 3553(a) factors.

8 So, at this point, let me pause. That's my take on
9 the 3553(a) factors. Let me ask Mr. Glozman whether you've
10 made a main argument in mitigation that I haven't addressed,
11 because if so, I would -- I would like to address it.

12 MR. GLOZMAN: I don't know if you -- I think you
13 kind of addressed it, but the only thing I talked about that
14 your Honor didn't mention was when the agents went out to
15 interview family members, and that he wasn't presenting any
16 kind of danger to them.

17 THE COURT: Right, yes. I am -- I did not mention
18 that, but I am aware of that, and I'm considering it. And of
19 course, it's something that weighs in Mr. Mitrovich's favor.

20 So, I've considered everything that's been submitted
21 in writing and here at the sentencing hearing, and it's my
22 obligation to impose a sentence that's sufficient, but no more
23 than necessary, to fulfill the purposes of 3553(a). And
24 having done so, I'm going to impose a sentence on
25 Mr. Mitrovich of 84 months, which is seven years.

1 It's a variance off the bottom end of the Guidelines
2 range, and the grounds for the variance are all the mitigating
3 factors that I've mentioned; and in particular, I want to
4 emphasize that this will be Mr. Mitrovich's first time in
5 prison, and as I mentioned, prison will be tougher on him
6 than on others who are imprisoned for different crimes.

7 There's the fact that Mr. Mitrovich has suffered and
8 will suffer non-custodial consequences. The eight years that
9 this has -- he's been dealing with this -- again, he brought
10 it on himself, and he has nobody to blame but himself; but
11 eight years from the time of an arrest or a search and
12 sentencing is a long time, much longer than the average. And
13 I wanted to give some consideration to the fact that this has
14 been something that Mr. Mitrovich has been dealing with for
15 eight years, and having this hanging over his head is
16 something that I wanted to consider.

17 There are the positive steps that Mr. Mitrovich has
18 taken since 2016 in terms of his substance abuse issues,
19 achieving sobriety, and mental health issues.

20 And then there are the -- the post-custodial
21 restrictions that he'll have to deal with for the rest of
22 his life. Again, this is something that he brought on
23 himself. He and only he is to blame for that. But those
24 post-custodial restrictions are not insignificant, and it's
25 something that I wanted to account for.

1 You know, in terms of the five-level enhancement,
2 it ended up -- whether I gave the five-level enhancement or
3 not, I would have given the same sentence, and it would have
4 been a Guideline sentence had I agreed with the defendant on
5 what the Guidelines range is if that five-level enhancement
6 didn't apply.

7 And I actually don't think it matters because with
8 respect to that -- let's say I agreed with Mr. Glozman on a
9 technical application of the Guideline, that the Guideline
10 applied only in situations where the defendant exchanged
11 child pornography with somebody who was a consumer and who
12 gave something in return to Mr. Mitrovich. I would think
13 that the Guideline was too narrow.

14 You know, sharing images and videos on a forum is
15 just as bad, if not worse, than the kind of conduct that would
16 be encompassed within the Guidelines -- within that Guideline
17 if I had -- in Mr. Glozman's understanding of that Guideline.
18 Why should it matter whether it's a person-to-person trade
19 where the other person was the consumer, as opposed to a
20 person-to-community or person-to-forum trade, where it doesn't
21 just go to one person, it goes to any number of people,
22 whoever is on that forum? I actually think that that's worse
23 than a person-to-person trade where the person is the
24 consumer.

25 So, I -- even if I had agreed with Mr. Glozman on

1 that issue, I would have given the exact same sentence, and --
2 because I would have considered, although the Guidelines
3 range would have been 78 to 97, in my mind, I would be
4 thinking 135 to 168 because I would think that the Guideline,
5 if it was as narrow as that, in fact, was too narrow and that
6 the Commission made a mistake and should have included in that
7 five-level enhancement the kinds of things that Mr. Mitrovich
8 did. And then I would go down for the reasons that I just
9 mentioned, to 84 months.

10 So, at the end of the day, the accounting with the
11 Guidelines didn't impact the sentence, the custodial sentence.

12 There's a \$100 special assessment. In terms of
13 restitution, it's agreed -- restitution is agreed as to 10 of
14 the victims, and we will -- I'll adopt that agreement. As to
15 victim No. 11, I'll impose restitution of \$3,000.

16 Just looking at the chart, you know, victim 11, there
17 were three images and no videos. Looking at the chart where
18 there are victims who have either two images or four images
19 and no videos, they were all \$3,000. And so victim 11 ought
20 to be on par with those other similarly situated victims.

21 So, that's going to be the restitution. I'll grant
22 the preliminary order of forfeiture and make that part of the
23 J&C. I'm not going to impose a fine on Mr. Mitrovich. He's
24 going to have this restitution obligation; and in terms of
25 whether the money should go to the government or the victims,

1 let's just make sure that the victims are paid, and then we
2 can leave it at that.

3 Supervised release, so, within 72 hours of when
4 Mr. Mitrovich is released from the custody of the Bureau of
5 Prisons, he'll need to report to the Probation Office in the
6 district to which he's released. And he'll get instructions
7 on that when the time comes.

8 There's a five-year minimum term of supervised
9 release. I'll impose a five-year term of supervised release.

10 You didn't have any objections to the proposed
11 conditions, did you, Mr. Glozman?

12 MR. GLOZMAN: No, your Honor.

13 THE COURT: So, under *U.S. versus Anglin*, 846 F.3d
14 954 at 969 to 970, you have the option. I could read those
15 conditions into the record, and I'm happy to do so; or you
16 can waive the reading.

17 MR. GLOZMAN: We'll waive them, your Honor.

18 THE COURT: All right. Let me ask Mr. Glozman, would
19 you or the defendant like a further explanation, elaboration,
20 or justification for the term of imprisonment, the term of
21 supervised release, or the supervised release conditions?

22 MR. GLOZMAN: No, your Honor.

23 THE COURT: Are there any remaining counts to be
24 dismissed?

25 MR. ERSKINE: No, your Honor.

1 THE COURT: Would you like for me to recommend a --
2 either a facility or a geographic region?

3 MR. GLOZMAN: As close to Chicago as possible.

4 THE COURT: Probation, do you think an RDAP
5 recommendation would be appropriate?

6 MR. ALPER: Yes, your Honor. I'd also request the
7 total amount of restitution. I don't have the exact number.

8 THE COURT: Okay. Somebody needs to do the math on
9 that.

10 MR. ERSKINE: I can do it.

11 THE COURT: You can do it?

12 MR. ERSKINE: I can do it right now.

13 MR. ALPER: Thank you.

14 THE COURT: So, I'll recommend the RDAP program.
15 And as I mentioned, the preliminary order of
16 forfeiture will be entered.

17 In terms of appeal rights, Mr. Mitrovich, although
18 you gave up a number of rights when you pleaded guilty, you
19 retained the right to appeal the validity of your guilty plea,
20 your sentence, and my July 2021 denial of your motion to
21 suppress and dismiss.

22 If you want to appeal any or all of those things, you
23 absolutely should, but you'll need to get your notice of
24 appeal on file within 14 days of the day that the sentencing
25 order is entered on the docket.

1 Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Mr. Glozman, will you discuss with
4 Mr. Mitrovich his appeal rights?

5 MR. GLOZMAN: I have, your Honor.

6 THE COURT: And if he would like to file a notice of
7 appeal, will you be able to do so in a timely manner?

8 MR. GLOZMAN: I will.

9 MR. ERSKINE: Your Honor, the total restitution is
10 67,500.

11 MR. ALPER: Thank you.

12 THE COURT: So, where do things stand in terms of
13 custody and surrender date? Government?

14 MR. ERSKINE: Your Honor, the government is asking
15 for detention.

16 THE COURT: And what's that -- is there a statute
17 that makes detention presumptive at this point?

18 MR. ERSKINE: 3143. It actually would have been at
19 the time of the change of plea.

20 THE COURT: Right. So, it's 3143. Is it (a)(2)?

21 MR. ERSKINE: I believe so, yes.

22 THE COURT: Or is it --

23 MR. ERSKINE: It's subsection (a).

24 THE COURT: Right. Is this -- is this -- your
25 thought that detention was required at the time of the change

1 of plea and certainly now, is that based on the nature of the
2 conviction?

3 MR. ERSKINE: Yes.

4 THE COURT: Mr. Glozman?

5 MR. GLOZMAN: Your Honor, Mr. Mitrovich has been on
6 bond for four years. I think there was only one alleged
7 violation. I would ask that he be able to stay out and
8 surrender. And one of the reasons is he recently -- I think
9 you saw him walk in, had a major knee injury at work, and he
10 has an MRI scheduled for this Wednesday. There's some missing
11 cartilage and some other things that need to be repaired.
12 We'd ask that he has time to surrender so he can get the
13 medical help that he's looking for.

14 THE COURT: Probation, what are your thoughts?

15 MR. ALPER: Your Honor, I'll defer to Justin Wiersema
16 from Pretrial Services.

17 MR. WIERSEMA: Good morning, your Honor. Justin
18 Wiersema from Pretrial Services. We did file a report with
19 the Court.

20 THE COURT: I saw it.

21 MR. WIERSEMA: We do recommend that he be detained
22 today based on all the factors that the government just said.

23 There is one violation. It is dated. It was
24 actually back in January of 2020. It's very minor, and it's
25 very dated; but there was a prior non-compliance submitted to

1 the Court.

2 THE COURT: Right.

3 So, I mean, which -- why -- Mr. Glozman, why do you
4 think I ought to -- why do you think I have wiggle room in
5 terms of not taking Mr. Mitrovich in at this point?

6 MR. GLOZMAN: I believe your Honor has the power to
7 order a surrender date. I think in other presumptive cases
8 where detention is presumed upon conviction, it happens all
9 the time. It's not mandatory detention.

10 So, I'd ask him to stay out because he's proven that
11 he can follow the conditions of supervised release. The minor
12 alleged violation from January of 2020 I think was him going
13 in and out of his condo for 15 minutes when he wasn't supposed
14 to, which didn't make much sense logistically how it was, but
15 it doesn't matter.

16 He's been compliant. He's got this major knee issue,
17 Judge, that he needs to get an MRI on to figure out what needs
18 to get done. He's barely hobbling around. We're not asking
19 that he stay out indefinitely.

20 THE COURT: So, I think Probation cited 3143(a)(2),
21 and it says that the judicial officer shall order that a
22 person who has been found guilty of an offense in a case
23 described in a provision of 3142(f)(1) shall be detained
24 unless; and then it goes to (B), the judicial officer finds by
25 clear and convincing evidence that the person is not likely to

1 flee or pose a danger to any other person or the community.

2 Do you think that -- Probation, do you think that
3 there's a risk that Mr. Mitrovich will flee or pose a danger
4 to any other person or to the community based on what's --
5 how he's conducted himself until this time?

6 MR. WIERSEMA: No, Judge. We do not. But we feel
7 that since the defendant is facing this lengthy sentence, and
8 he's been on bond this long, things are going well, but we
9 think that is appropriate at this time.

10 THE COURT: Government, what are your thoughts?

11 MR. ERSKINE: I'm just reviewing 3143, because as I
12 recall it, it doesn't -- if I can have just a moment, your
13 Honor.

14 THE COURT: Of course.

15 MR. ERSKINE: So, your Honor, I believe you said the
16 judicial officer finds by clear and convincing evidence and so
17 on and so forth.

18 THE COURT: Right.

19 MR. ERSKINE: But it's the -- it's an "and," with the
20 first part. The government has to agree, too.

21 THE COURT: Right. You're right. It's (A) is the
22 judicial officer finds that there is a substantial likelihood
23 that a motion for acquittal or new trial will be granted, or
24 an attorney for the government has recommended that no
25 sentence of imprisonment be imposed; and then (B). And this

1 isn't a situation -- this is not a situation where there's
2 either (A)(i) or (A)(ii), so --

3 MR. ERSKINE: Your Honor, but I will -- for the
4 completeness of your understanding, under 3145 --

5 THE COURT: Yes.

6 MR. ERSKINE: -- essentially, it boils down to --

7 THE COURT: Exceptional reasons?

8 MR. ERSKINE: -- at the bottom, if it is clearly
9 shown that there are exceptional reasons why the person's
10 detention would not be appropriate.

11 THE COURT: So, let's do this. Why don't we set the
12 surrender date -- is there going to be -- because after three
13 days, the residential restrictions kick in, right?

14 MR. GLOZMAN: He has a new apartment that's -- he's
15 paid for a couple of months in advance, I believe, and it's in
16 a place where he's allowed to live. We checked with the
17 police department, and I believe pretrial has made sure of
18 that.

19 MR. WIERSEMA: Judge, that's what we've been told.
20 I have not seen a lease yet, but Mr. Mitrovich has given me
21 the details. If the address is suitable, we anticipate he'll
22 move today or tomorrow because he does have to register within
23 three days, because the address that he's at now, he cannot
24 register at. So, he does have to move to a registerable
25 address by Wednesday.

1 So, we've been in contact. I haven't seen the
2 paperwork, but I believe that's where he's at.

3 THE COURT: Okay. Given the situation with
4 Mr. Mitrovich's knee, given his compliance thus far with the
5 terms of supervised release -- I'm sorry, pretrial release,
6 and given the situation with Mr. Mitrovich's mother, let's
7 have a surrender date of January 17th, 2023.

8 Will he be designated by then?

9 MR. WIERSEMA: I anticipate so, yes.

10 THE COURT: Okay.

11 MR. WIERSEMA: As long as the order specifies that
12 surrender date, they'll prioritize that and likely get him
13 surrendered by then -- designated by then.

14 THE COURT: And that will give Mr. Mitrovich a chance
15 to spend the holidays with his mother and take care of
16 whatever affairs he needs to take care of.

17 MR. GLOZMAN: There's one thing I'll also ask, your
18 Honor, if that's okay. For the MRI, he can't do it with his
19 electronic monitoring bracelet on. If we can just have an
20 allowance for it to be taken off just for that day in the
21 morning and be put on in the evening so he can get the MRI
22 done.

23 MR. WIERSEMA: No objection.

24 THE COURT: As long as you work it out with the
25 Probation Office -- I'm sorry, the Pretrial Services, that's

1 fine with me.

2 Anything further from the government?

3 MR. ERSKINE: No, your Honor.

4 THE COURT: Mr. Glozman?

5 MR. GLOZMAN: I just want to say something off the
6 record after we're done.

7 THE COURT: Sure. Pretrial?

8 MR. ALPER: Nothing, Judge.

9 THE COURT: All right. Thanks. We'll conclude the
10 case.

11 (Which were all the proceedings heard.)

12 CERTIFICATE

13 I certify that the foregoing is a correct transcript from
14 the record of proceedings in the above-entitled matter.

15

16 */s/Charles R. Zandi*

February 8, 2023

17 Charles R. Zandi
18 Official Court Reporter

Date

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